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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,741	07/22/2003	Isabelle Rollat	05725.0663-01	5256

22852 7590 02/02/2006

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EXAMINER

VENKAT, JYOTHSNA A

ART UNIT PAPER NUMBER

1615

DATE MAILED: 02/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/623,741

Applicant(s)

ROLLAT ET AL.

Examiner

JYOTHSNA A. VENKAT Ph. D

Art Unit

1615

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 4 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1 and 29-33.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).
13. ☐ Other: _____.


JYOTHSNA A VENKAT Ph. D
Primary Examiner
Art Unit: 1615

Continuation of 11. does NOT place the application in condition for allowance because: applicants argue that patent '494 at col.18, lines 25-64 teaches styling the hair, i.e., curling and then applying the composition to fix the hair where as curl retention is not reshapable effect since reshapable effect in the claims requires the ability to restore or modify hair style without adding new material or heat. In response, example 28 is drawn to "curl retention" and the polyurethane is the hair fixative polymer and example 28 is drawn to same effect as applicants and applicants did not present any evidence in declaration form which shows that example 28 is different than the instant claimed invention. Note that claims 1 and 29-30 are drawn to compositions using the same polyurethane, claim 31 is to device and example 28 uses aerosol (device) formulations. Example 28 does not add any new material and therefore example 28 is drawn to the same "reshapable hair styling compositions". If applicants disagree with the examiner, they are requested to point out to the material that is added in example 28. Note that "reshapable... mean " a hair styling composition providing hair styling that can be restored or modified without new material". Applicants argue that patent '840 teaches composition at col.14, lines 59-62 that does not provide reshapable effect by disclosing that the fixative is ... in stiffness and resistance to combing. In response, applicants attention is drawn to col.16, tables 4-6 which discloses curl retention of the polyurethane. Applicants did not present any evidence in declaration form which proves that tables 4-6 are not drawn to claimed invention. Applicants argue that patent '119 does not teach a composition providing a reshapable effect since the patent teaches maintaining hair style. In resposne , applicants attention is drawn to col.1, lines 20-21 and claim 31 which discloses and claims process for "shaping the hair style", which is same as claimed invention. Applicants did not present any evidence in declaration form that "shaping hair style using polyurethane" claimed in the patent is not same as "reshapable hair styling using polyurethane".